



Nottingham

City Council

Constitution

Article Thirteen: Access to Information Procedure Rules

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Procedure Rules

13.1 **Scope**

These rules cover all formal meetings of Full Council and its Committees, and the Executive and its Committees. Throughout this Article these are collectively referred to as meetings. The relevant sections also apply to Executive decisions taken by the Leader, individual Portfolio Holders and officers.

13.2 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

Rules Applying to All Meetings and Decisions

13.3 The following rules (13.4 – 13.22) apply to all meetings.

13.4 **Notice of Meetings**

The Council will give at least five clear working days' notice of any meeting by posting details of the meeting at the Council House, Old Market Square, Nottingham, at Loxley House, Station Street, at the venue for the meeting if it is being held elsewhere and on the Council's website.

13.5 Clear days do not include the day on which the notice of the meeting is given or the day of the meeting itself. Working days excludes weekends and bank holidays.

13.6 In exceptional circumstances a meeting may have to be convened at shorter notice. In these circumstances notice will be given at the time that the meeting is convened. The reasons for the short notice will be recorded in writing with the agenda for the meeting.

13.7 **Public Access to agendas and reports before the meeting**

The Council will make copies of the agenda and reports which are open to the public available for inspection at Loxley House and on the Council's Website at least five clear working days before the meeting or as soon as a meeting is convened.

13.8 In relation to Non-executive Committees only, and in exceptional circumstances, if an item is included on an agenda for a meeting but the report is not available at the time that the agenda for the meeting is made available it will be marked "To Follow" on the agenda. Reports marked "To Follow" will be made available to Councillors and the public, provided it is not exempt from publication, as soon as possible.

13.9 Items can be added to an agenda after it has been made available. Where this occurs the revised agenda and any report will be made available to Councillors and the public, provided it is not exempt from publication, as soon as the item is added to the agenda. Such items can only be added to an agenda with the agreement of the Chair which must be recorded at the meeting.

13.10 Councillors have additional rights of access which are detailed in paragraphs 13.50 to 13.56 below.

13.11 Copies of Agenda and Reports

If requested, the Council will supply copies of:

- any agenda and reports which have been made available to the public
- any additional or supplementary information necessary to indicate the nature of those agenda or reports
- copies of any other documents supplied to Councillors in connection with an item, if the Director of Legal and Governance thinks fit

to any member of the public. The Council reserves the right to charge for these copies to cover postage and any other reasonable costs.

13.12 Attending and Recording Meetings

Nottingham City Council encourages citizens to attend its meetings. Citizens have the right to attend all formal meetings subject only to the exceptions in these rules.

13.13 Those attending meetings also have the right to record and report on public meetings, as outlined in Governance Framework Document A - Policy on Recording and Reporting on Public Meetings, provided this is done in accordance with that Policy.

13.14 Access to Information After Meetings or After Decisions are Taken

Copies of the following information will be available to the public for a minimum of six years after a meeting:

- the agenda for the meeting
- reports relating to items when the meeting was open to the public provided they do not disclose exempt or confidential information
- the minutes of meetings, excluding any part of the minutes when the meeting was not open to the public or which disclose exempt or confidential information
- a summary of any part of the meeting that was not open to the public if the published minutes of that part of the meeting do not provide a reasonably fair and coherent record of the business conducted.

13.15 Background papers

The officer responsible for a report will list any relevant background papers in the report. Background papers are defined as documents which in the opinion of the officer responsible for the report:

- disclose any facts or matters which the report or an important part of the report is based, and which have been relied upon to a significant extent in preparing the report
- are not published works which should be listed separately
- are not exempt or confidential.

13.16 Copies of any listed background papers will be made available for public inspection for a minimum of four years after the date of the meeting. Background papers relating to any Executive decision must also be made available on the Council's website.

13.17 Excluding the Public From Meetings

Whilst the Council seeks to conduct its business as openly and transparently as possible, there are occasions when it is necessary to exclude the public from meetings. Paragraphs 13.18- 13.23 outline when this may be necessary.

13.18 Confidential information

The public must be excluded from meetings whenever it is likely that confidential information would be disclosed. Any document or part of document that contains or may contain confidential information must not be disclosed to the Public.

13.19 Confidential information means information provided to the Council by a Government Department on terms which forbid the disclosure of the information to the public or information which the Council has been prohibited from disclosing by any enactment or by any order of a court.

13.20 Exempt information

The public may be excluded from meetings whenever it is likely that exempt information would be disclosed. The Committee considering the information will decide whether to exclude the public. Exempt information means information falling within one or more of the seven categories outlined in the table below. In addition, all seven categories are subject to a Public Interest Test. This means that the exemption is only possible if the public interest in maintaining an exemption outweighs the public interest in disclosing the information. The exclusion of the public will be recorded in the minutes of the meeting.

Category	Qualifications/ Definitions
1. Information relating to any individual.	
2. Information which is likely to reveal the identity of an individual.	
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	Information is not exempt information if it is required to be registered under: (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993 Information is not exempt if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.

Category	Qualifications/ Definitions
	<p>‘financial or business affairs’ includes contemplated, as well as past or current, activities.</p> <p>‘registered’ in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act)</p>
<p>4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</p>	<p>‘Employee’ means a person employed under a contract of service. ‘Labour relations matter’ means:</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218 (1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above;</p> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>‘office-holder’, in relation to the authority, means the holder of any paid office, appointments to which are or may be made or confirmed by the authority or by any joint board on which the authority is represented or by any person who holds any such office or is an employee of the authority.</p>
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.</p>	
<p>6. Information which reveals that the authority proposes</p> <p>(a) to give under any enactment: a notice under or by virtue of which requirements are imposed on a person; or</p>	

Category	Qualifications/ Definitions
(b) to make an order or direction under any enactment.	
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

13.21 In addition to the exemptions outlined above, where a meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of the Act.

13.22 Exclusion of Access by the Public to Reports

If the Director of Legal and Governance thinks it is appropriate, the Council may exclude the public from accessing the whole or any part of reports. The public can only be excluded in this way if in the opinion of the Director of Legal and Governance, the report or part report contains exempt or confidential information and would therefore be considered in part of a meeting which would not be open to the public. These reports will be marked "Not for publication" and the category under which it has been exempted will be listed.

13.23 Licensing Committee and Licensing Panels

The Licensing Committee and its Panels are appointed by Council acting in its capacity as a Licensing Authority under the Licensing Act 2003. The Access to Information provisions do not apply to the Committee and Panels as they operate under the provisions of the Licensing Act 2003, Gambling Act 2005 and secondary legislation made under them.

Rules Applying to Executive Meetings and Decisions

13.24 The following rules (13.24 – 13.35) apply to Executive meetings and individual Executive decisions taken by the Leader, Portfolio Holders and Officers only.

13.25 In these rules, 'decision maker' means the body or individual responsible for taking an Executive decision. 'Decision making body' means either Executive Board, a Committee or Sub-committee of the Executive, a joint Committee or Sub-committee of a joint Committee (where all of its members are members of a local authority Executive).

13.26 Procedure Before a Key Decision Can be Taken

This rule applies to Key Decisions taken by the Leader, an Executive Committee or an officer. A Key Decision (as defined in Article 10 – Executive Arrangements) may not normally be taken unless the following procedure has been followed.

13.27 At least 28 clear calendar days before a Key Decision is to be taken, a notice will be published on the Council's website and made available for inspection by

the public at the Council's offices at Loxley House, Station Street, Nottingham setting out the following:

- that a key decision is to be made on behalf of the Council
- the matter on which the decision is to be made
- where the decision maker is an individual, that individual's name, and title, if any
- where the decision maker is a decision-making body, its name and a list of its members
- the date on which, or the period within which, the decision will be made
- a list of the documents submitted to the decision maker for consideration
- the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available
- that other documents relevant to those matters may be submitted to the decision maker
- the procedure for requesting details of those documents (if any) as they become available.

13.28 This notice must contain details of any part of an Executive meeting from which the public are likely to be excluded, or any documents that the public are excluded from accessing. Such exclusions are based on the likely disclosure of:

- confidential or exempt information or
- advice provided by a political adviser or assistant (in the case of a Key Decision taken by an individual).

13.29 In addition, where the decision is to be taken at a meeting of Executive Board or another Executive Committee, notice of the meeting will be given in accordance with paragraph 13.4 (Notice of Meetings).

13.30 **General Exception – Key Decisions**

Subject to paragraph 13.31 below, where it is impracticable to give 28 clear calendar days' notice that a Key Decision is going to be made, that decision may only be taken when the following procedure has been followed.

- where the proper officer has informed the Chair of the Overview and Scrutiny Committee, or if there is no such person, each member of the Overview and Scrutiny Committee of the matter about which the decision is to be made
- where the proper officer made a notice available for inspection by the public at the Council's offices at Loxley House, Station Street, Nottingham and on the Council's website confirming
 - the matter about which the decision is to be made
 - the date that the Chair of the Overview and Scrutiny Committee (or each member of the Overview and Scrutiny Committee) was informed of this matter
 - the reasons why it was impracticable to give 28 clear days' notice of that key decision.
- 5 clear working days have elapsed following the publication of this notice.

13.31 **Cases of Special Urgency – Key Decisions**

Where the date by which a Key Decision must be made, makes compliance with paragraph 13.30 impracticable, the decision may only be taken when agreement has been obtained from:

- the Chair of the Overview and Scrutiny Committee or
- where there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Lord Mayor (as Chair of Full Council) or
- where there is no Chair of either the Overview and Scrutiny Committee or Lord Mayor, or neither can act, the Sheriff (as Vice Chair of Council)

that the decision is urgent and cannot reasonably be deferred.

13.32 As soon as reasonably practicable after agreement has been obtained as outlined above, a notice must be made available at the Council's offices at Loxley House, Station Street, Nottingham, for public inspection and published on the Council's website stating the reasons why the decision is urgent and cannot reasonably be deferred and recording the date of the agreement by the Chair of the Overview and Scrutiny Committee (or Lord Mayor or Sheriff).

13.33 **Procedures Before an Executive Decision Making Body can Meet in Private**

At least 28 days before an Executive decision making body intends to hold all or any part of a meeting in private a notice must be made available at the Council's offices at Loxley House, Station Street, Nottingham and on the Council's website stating the intention to hold the meeting in private and providing reasons why the meeting is to be held in private. The notice must also provide details of how the public can make representations about why the meeting should be open to the public.

13.34 At least 5 clear days before a private meeting a further notice must be made available at the Council's offices at Loxley House, Station Street, Nottingham and published on the Council's website of its intention to hold the meeting in private. The notice must include:

- a statement of the reasons why the meeting will be held in private
- details of any representations received by the decision making body about why the meeting should be open to the public
- a statement of its response to any such representations.

13.35 If it is impracticable to comply with the requirement for 28 days' notice of a private meeting the meeting may only be held in private where agreement has been obtained from:

- the Chair of the Overview and Scrutiny Committee; or
- if there is no such person, or if the Chair of the Overview and Scrutiny Committee is unable to act, the Lord Mayor (as Chair of Council); or
- where there is no chair of either the Overview and Scrutiny Committee or of the Council, the Sheriff (as Vice- Chair of the Council)

that the meeting is urgent and cannot be reasonably be deferred.

13.36 As soon as reasonably practicable after agreement has been obtained a notice must be made available at the Council's offices at Loxley House, Station Street, Nottingham and published on the Council's website setting out the reasons why the meeting is urgent and cannot reasonably be deferred and the date of the agreement by the Chair of the Overview and Scrutiny Committee (or Lord Mayor or Sheriff).

13.37 Reports to Council Where the Key Decision Procedure is Not Followed

The Overview and Scrutiny Committee can require a report where an Executive decision has been made and was not treated as a key decision and a relevant Overview and Scrutiny Committee is of the opinion that the decision should have been treated as a Key Decision.

13.38 The Overview and Scrutiny Committee may require the Executive decision maker to submit a report to Council within a reasonable time period as specified by the Committee including details of:

- the decision and the reasons for the decision
- the decision maker and
- if the Executive decision maker is of the opinion that the decision was not a Key Decision, the reasons for that opinion.

13.39 Executive Reports to Council on Special Urgency

The Leader will submit reports to each meeting of Full Council containing details of each Executive decision taken under the Special Urgency procedure during the period since the last report. This information will also be reported to the Standards and Governance Committee.

13.40 Records of Executive Decisions Taken at Meetings

As soon as reasonably practicable after any meeting of a decision making body at which an Executive decision was made the proper officer or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting in the form of minutes. These minutes will be dealt with in accordance with paragraph 13.14.

13.41 Minutes of Executive Committee meetings must include the following information:

- a record of the decision made and the date it was made
- the reasons for the decision
- details of any alternative options that were considered and rejected by the individual making the decision
- a record of any conflict of interest declared by the individual within whose remit the decision falls
- and, if any decision is taken by an individual who has declared a conflict of interest, a note of dispensation granted by the Standards and Governance Committee.

13.42 Individual Executive Decisions Made by the Leader and Portfolio Holders

As soon as reasonably practicable after an Executive decision has been taken by an individual member of the Executive a record of the decision will be prepared. The record must include the information listed in paragraph 13.41

13.43 After an Executive decision has been taken by an individual member of the Executive, the record of the decision, any report considered and the background papers listed in any report must be available at the Council's offices at Loxley House, Station Street, Nottingham and on the Council's website, for inspection by the public as soon as is reasonably practicable. This does not require the disclosure of exempt or confidential information or advice from a political assistant.

13.44 Records of Executive Decisions taken by Officers

As soon as reasonably practicable after an officer has made an operational Executive Decision with a value above £25,000, the record of decision will be prepared.

13.45 The decision will be recorded on the prescribed Operational Decision form and will be published for transparency purposes.

13.46 Where such an Executive decision is taken by an officer, the record of the decision will be made available to the public on the Council's website and at the Council's offices as soon as reasonably practicable.

Non-Executive Decisions taken by Officers

13.47 Where an officer takes a non-Executive decision with a financial value equal to that which defines a Key Decision, a record of that decision will be produced. The record will include the information outlined in paragraph 13.41 and will be made available for public inspection at the Council's offices and published on the Council's website.

13.48 In addition, decisions taken by officers which:

- grant a permission or licence or
- affect the rights of an individual

must be recorded, made available for inspection at the Council's offices and published on the Council's website as soon as practicable after the decision has been made. Hard copies must be made available on request for which a reasonable fee may be charged to cover printing and postage costs. The record must remain available for a minimum of six years.

13.49 The record must contain the following information:

- the date the decision was taken
- a record of the decision taken along with reasons for the decision
- details of alternative options, if any, considered and rejected.

Rights of Access to Information for Councillors

13.50 Additional Rights of Access for Overview and Scrutiny Committees

Subject to paragraph 13.52 a member of an Overview and Scrutiny Committee is entitled to copies of any document in the possession or control of the Executive which contains material relating to:

- any business transacted at a meeting of an Executive decision making body
- any decision taken by an individual member of the Executive or by an officer under Executive arrangements.

13.51 Any document which an Overview and Scrutiny member is entitled to under this paragraph must be provided by the Executive as soon as reasonably practicable and no later than 10 clear days after the Executive receives the request.

13.52 Limit on rights

Members of Overview and Scrutiny Committees are not entitled to copies of:

- any document or part of a document that contains exempt or confidential information unless that information is relevant to:
 - an action or decision that that Councillor is reviewing or scrutinising or
 - any review contained in any programme of work of such a Committee or Sub-committee or
- a document or part of a document containing advice provided by a political adviser or assistant.

13.53 Where the Executive decides that a member of the Overview and Scrutiny Committee is not entitled to a copy of a document or part of a document for a reason set out in this paragraph, it must provide the Overview and Scrutiny Committee with a written statement setting out its reasons for that decision.

13.54 Additional rights of access for Councillors

All Councillors are entitled to any public document which is in the possession or under the control of the Executive. Such a document must be made available for inspection at least 5 clear working days before the meeting at which the decision is to be taken. Where a meeting is convened at shorter notice such a document must be available at the time the meeting is convened and where an item is added to an agenda at shorter notice such a document must be available for inspection when the item is added to the agenda. Additional rights have been given to the Leaders of Political Groups as outlined in Article 10 – Executive Arrangements.

13.55 Where information has been considered at a private meeting of the Executive, immediately after a decision is made or is taken by an individual member or an officer, any document which is in the possession or under the control of the Executive and contains material relating to that decision shall be open to inspection by all Councillors unless either of the points below applies.

- it contains exempt information falling within paragraphs 1, 2, 4, 5 and 7 of the categories of exempt information and paragraph 3 (to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract) or
- contains the advice of a political adviser.

13.56 The rights outlined in paragraphs 13.50 and 13.51 are in addition to any other rights that councillors may have. Further information on some of these rights can be found in Article Six – Councillor/ Officer Protocol.